

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 N. FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)

Sutherland Associates, L.L.C.)
Sutherland, Nebraska)

Respondent)

Docket No. CAA-~~97~~2001-0003

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on November 21, 2000, pursuant to Section 325 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11045, and Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), when the United States Environmental Protection Agency (Complainant or EPA) issued to Sutherland Associates, L.L.C., Sutherland Nebraska (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of EPCRA Section 312, 42 U.S.C. § 11022, and the regulations promulgated pursuant to Section 312 of EPCRA, and codified at 40 C.F.R. Part 370; and Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and codified at 40 C.F.R. Part 68.

The Complaint proposed a civil penalty of Forty-Eight Thousand One Hundred Twenty-Five Dollars (\$48,125) for these violations. The parties entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations set forth in the Complaint.
2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.
3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint and waives its right to appeal the Final Order accompanying this Consent Agreement.
4. Respondent and EPA each agree to pay their own costs and attorneys' fees incurred as a result of this action.

5. Respondent certifies by the signing of this Consent Agreement that it is in compliance with the requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations promulgated thereunder at 40 C.F.R. Part 370; and Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder at 40 C.F.R. Part 68.

6. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as set forth below. The mitigated civil penalty is a result of the Respondent's inability to pay the proposed penalty.

FINAL ORDER

Pursuant to the provisions of the Emergency Planning and Community Right to know Act (EPCRA), 42 U.S.C. § 11045, and the Clean Air Act (CAA), 42 U.S.C. § 7413, and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

1. Within thirty (30) days of the effective date of this Final Order, Respondent shall pay a mitigated civil penalty of \$500.

2. Payment of the penalty shall be by cashier's or certified check made payable to "Treasurer of the United States" and remitted to:

EPA - Region VII
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251

The Respondent shall reference the Docket Number, CAA-07-2001-0003, on the check. A copy of the check shall also be mailed to:

Jenna Wischmeyer
Office of Regional Counsel
Region VII
901 N. 5th Street
Kansas City, KS 66101

3. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest thereon at

the rate of five percent (5%) per annum.

4. Respondent and Complainant shall pay their own costs and attorneys' fees incurred as a result of this action.

RESPONDENT:
SUTHERLAND ASSOCIATES, L.L.C.

Rochelle Heussmann
Name: Rochelle Heussmann
Printed Name
Title: Compliance Manager

3/24/02
Date

COMPLAINANT:
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Anna Weismeyer
Assistant Regional Counsel

5-28-02
Date

for William A. Spratin
William A. Spratin, Director
Air, RCRA and Toxics Division

5/29/02
Date

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

Karina Borromeo
~~Robert L. Patrick~~ Karina Borromeo
Regional Judicial Officer

June 3, 2002
Date

IN THE MATTER OF Sutherland Associates, L.L.C., Respondent
Docket No. CAA-7-2001-0003

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Jenna Wischmeyer
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mike Mostek
Kolsey Jessen P.C.
One Pacific Place, Suite 800
1125 South 103rd Street
Omaha, Nebraska 68124-1079

and


Copy by facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

and

The Honorable Carl C. Charneski
Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

Dated: 10/3/02


Kathy Robinson
Regional Hearing Clerk